

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	
)	
v.)	Criminal No. 15-10338-FDS
)	
6. HERZZON SANDOVAL)	
a/k/a "CASPER,")	
)	
7. EDWIN GUZMAN)	
a/k/a "PLAYA,")	
)	
11. CESAR MARTINEZ)	
a/k/a "CHECHE,")	
)	
14. ERICK ARGUETA LARIOS)	
a/k/a "LOBO,")	
)	
Defendants)	

**GOVERNMENT’S PROPOSED JURY INSTRUCTION
REGARDING NON-RACKETEERING ACTS**

The United States respectfully requests that the Court remove accessory after the fact to murder and attempted murder from its list of non-racketeering acts because that crime is a RICO predicate act, albeit not one that is charged in the indictment in this case. *See United States v. Patriarca*, 912 F. Supp. 596, 627 (D. Mass. 1995) (Wolf, J.) (noting that 18 U.S.C. §1961(1) “states that ‘any act . . . involving murder’ is a RICO predicate. In this context, to ‘involve’ means ‘to relate closely.’ *See Webster’s New International Dictionary Unabridged* 1191 (3d ed. 1981). The court finds that being an accessory after the fact to murder relates closely to murder. Thus, §1961(1) makes the crime a RICO predicate.”). Since the indictment in this case does not charge the defendants or their coconspirators with accessory after the fact to murder or attempted murder in aid of the MS-13 racketeering enterprise, the government does not request that the Court affirmatively instruct the jury on the elements of this crime.

However, since accessory after the fact to murder or attempted murder *is* a racketeering act, the jury should not be instructed that it is not.

Respectfully submitted,

ANDREW E. LELLING
United States Attorney

By: /s/ Kelly Begg Lawrence
KELLY BEGG LAWRENCE
CHRISTOPHER POHL
Assistant United States Attorneys

CERTIFICATE OF SERVICE

I hereby certify that this document, filed through the Court's Electronic Court Filing (ECF) system on February 19, 2018, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

By: /s/ Kelly Begg Lawrence
KELLY BEGG LAWRENCE
Assistant United States Attorney